

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. J. B. Adams

DATE: 8/9/74

FROM : Legal Counsel

SUBJECT: RECORDS OF SPECIAL ELECTRONIC
COVERAGE PLACED AT THE REQUEST
OF THE WHITE HOUSE -
PUBLICATION BY THE HOUSE
JUDICIARY COMMITTEE -
DAMAGE ASSESSMENT

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DATE 8/28/85 BY SPZTAP/Cs

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Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
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Legal Counsel _____
Telephone Rm. _____
Director Sec'y _____

Memorandum A. B. Fulton to Mr. Wannall captioned as above dated 8/6/74, proposed the approval of letters to be sent to certain members of Congress, Special Prosecutor Jaworski and Judge Sirica expressing our concern over the disclosure of "Top Secret" material in the Special Report of the Interagency Committee on Intelligence (AD HOC). The Director noted "Mr. Mintz -- See me pls" on the memorandum. I met with the Director at 9:30 AM on 8/9/74, and he advised me that he was greatly concerned that something should be done to prevent damaging disclosures of sensitive material in the future. He asked whether there might be something done in order to prevent further disclosure of material made available to the Congress, the Special Prosecutor, or to the courts.

I advised the Director the procedures would be for us to request a pledge of confidentiality and that the material would be used only for the purposes submitted. I added that it might be possible for the pledge to be made known to the public and should there occur a violation the breach of that pledge by the committee or member of Congress would also be public knowledge. I also advised the Director that if the Attorney General is persuaded of the necessity to protect the material it would be useful if the Attorney General would require that such material be reviewed by a limited

- 1 - Mr. McDermott
1 - Mr. Wannall
2 - Mr. Mintz

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number of persons and that no copies or notes be made of the material being reviewed. I pointed out that in the past it has not been totally successful for us to have the Attorney General require such limited review of material furnished the Congress, however, the disclosure of the material in the "Top Secret" report by the Rodino Committee could serve as a case to persuade the Attorney General to take steps in the future to provide the necessary protection for sensitive material.

The Director asked me whether in my opinion it would be proper for him to advise the Attorney General directly of the potentially dangerous consequences of the disclosure in the "Top Secret" report and explain why those consequences are possible. I advised the Director that in my view the difficulty in the past has been that disclosures have been made by persons in possession of documentary material who did not have the factual background of the material in order to determine its real significance and the impact its disclosure would have on the work of the FBI or the national interest. Therefore, I recommended that the Director brief the Attorney General in some detail as to the problem presented by the Rodino Committee disclosure of the 'Top Secret' material and that the Attorney General be encouraged to act in our behalf in the future should we receive requests for sensitive material from the Congress. Such steps could include a requirement by the Attorney General that material be reviewed in person by the chairman and ranking minority member of the committee and that no copies or notes be made of the material.

The Director then inquired as to whether I thought it would be appropriate for him to furnish a briefing to Chairman Rodino of the House Judiciary Committee that would explain to Rodino the serious nature of the disclosure and that would alert Rodino to the possibility of further damage should sensitive material be published. I advised the Director that the publication of parts of the 'Top Secret' document by the committee has already endangered the usefulness and, indeed, the life of an informant and an appropriate

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briefing of Chairman Rodino could well serve to prevent further disclosure of material that could result in significant damage to FBI operations. I suggested that it might be possible for such a briefing to provide the necessary understanding on the part of Chairman Rodino without actually giving him details that would identify informants or sensitive techniques. The Director then instructed that this matter be pursued and requested me to refer it to the Intelligence Division for study and preparation of appropriate recommendations as to the timing and scope of a briefing of Chairman Rodino concerning this matter.

I asked the Director if he intended for the Attorney General to be advised prior to any contact being made with Chairman Rodino for these purposes and he answered in the affirmative.

I advised the Director that in regard to the proposed letter to Judge Sirica, I would suggest a modification of the second paragraph to read as follows: "Accordingly, I am bringing this matter to your attention with the hope that you will call upon me to discuss the significance of the material in the event you contemplate disclosure."

The Director requested me to see that this matter proceeds at once.

In regard to the Fulton to Wannall memorandum, the Director asked what caution did Judge Sirica place on the material before he furnished it to the House Judiciary Committee. I was unaware of the details of the transfer of the document from Judge Sirica to the committee and advised the Director I would refer to this question to the Intelligence Division.

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RECOMMENDATIONS:

1. That the Intelligence Division review this matter pursuant to the Director's instructions and prepare appropriate material for his use in briefing the Attorney General and Chairman Rodino concerning the dangers of publication of certain portions of the "Top Secret" document.
2. That the proposed letters attached to the Fulton to Wannall memorandum be prepared in final form for use by the Director in discussing this matter with the Attorney General.
3. That the Intelligence Division determine the facts concerning the Director's question as to what caution Judge Sirica placed on the material furnished by him to the House Judiciary Committee.

JMA *wfw* *GW*